

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO: 04-30054-MAP

DEBORAH ST. PETER and	)
MATTHEW BOGACZ,	)
Plaintiffs	)
	)
v.	)
	)
TOWN OF AGAWAM, TOWN OF AGAWAM	)
POLICE DEPT., AGAWAM POLICE CHIEF	)
ROBERT CAMPBELL, ANTHONY GRASSO,	)
JAMES WHEELER, RICHARD NILES,	)
KEITH BOPKO, JOHN MOCCIO,	)
OFFICER MCGOVERN,	)
Defendants	)

**PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE AND PROTECT PORTIONS OF  
THE PLAINTIFF MATTHEW BOGACZ'S PSYCHIATRIC RECORDS**

Now Come the Plaintiffs in the above entitled action and respectfully request that this Honorable Court exclude from evidence and protect a portion of the Plaintiffs' psychiatric records. As grounds therefore, the Plaintiffs assert that the subject matter of the portion of the records in question is in no way relevant to the matter before the Court, and of a highly sensitive and private nature that would cause a great deal of embarrassment and distress to the Plaintiff should they be disclosed to anyone.<sup>1</sup>

The Plaintiffs began treatment with a therapist as a result of and following the incident with the Agawam Police on March 24, 2002. They treated together, with the same therapist,

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<sup>1</sup> By way of background, during the written discovery phase of this case, the Plaintiffs responded to a discovery request of the Defendants requesting their psychiatric records by objecting and further indicating that if an appropriate confidentiality agreement were agreed to, they would then disclose to the Defendants the relevant portions of the records. Thereafter, the parties agreed to a confidentiality agreement, the Plaintiffs drafted one, signed it and sent it to Defense counsel for signatures and filing with the Court (twice, as the first one was lost). To date, this agreement has not been filed and Plaintiffs have no idea whether all the Defendants have signed or not. As a result, despite the fact that they have indicated from the beginning of the case their intent to use their psychiatric records at trial, they have not disclosed them to the Defendants because the confidentiality agreement has yet to be filed. Furthermore, it was also made clear to Defense counsel that even with the confidentiality agreement, Plaintiffs would still be seeking protection from the Court from disclosing the portion of the records referred to herein.

from March of 2002 through December of 2003. Thereafter the Plaintiff St. Peter ceased treatment altogether and the Plaintiff Bogacz continued to treat with the same therapist, however for a completely separate and distinct issue which has absolutely no bearing or relevance to the matters now before the Court. In fact, after December of 2003 there is only one reference to the situation with the Agawam Police.

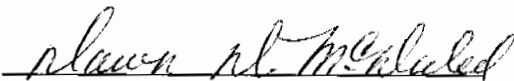
The Plaintiff is not claiming that these records are subject to the psychotherapist/patient privilege, but rather is requesting that any records after December of 2003 be excluded and protected pursuant to Fed. R. Evid. 402, 403 on grounds of relevance.

WHEREFORE, the Plaintiffs respectfully request that this Honorable Court exclude from evidence and protect the portion of the Plaintiffs' psychiatric records subsequent to December of 2003 as they are irrelevant to the matter now pending before the Court.

THE PLAINTIFFS  
DEBORAH ST. PETER &  
MATTHEW BOGACZ

Dated: August 24, 2006


By:

  
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**CERTIFICATE OF SERVICE**

I, Dawn D. McDonald, Esq., hereby certify that on this 24<sup>th</sup> of August, 2006, I caused the foregoing document to be served upon all the Defendants the above Motion in Limine, via E-mail, as follows: Jeffrey L. McCormick, Esq., Robinson Donovan, 1500 Main Street, Suite 1600, P. O. Box 15609, Springfield, MA 01103; jmcormick@robinson-donovan.com.

  
Dawn D. McDonald, Esq.